IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 195 OF 1997

Lakhmichand R. Asrani & Ors. .. Petitioners

Vs.

Ramesh Jayantilal Bhatt & Ors. .. Respondents

Mr. A.G. Shah for Petitioners-absent.
Mr. A.S. Khandeparkar for Respondent Nos.1 and 2.
Mr. Arvind G. Joshi for Respondent Nos.3,5 and 6.

CORAM: B.H. MARLAPALLE, J.

Date : October 05, 2005.

ORAL JUDGMENT:

1. S.C. Suit No.3149 of 1989 came to be decreed by the City Civil Court at Mumbai and it has been alleged that the suit property or part thereof was sold by the present respondents - Judgment Debtors after the said decree was passed. It is more particularly alleged that Plot No.26 Part II and Part III of Chorkat were sold out on 24/4/1992, Plot No.7(a) Part I and 7(b) Part I was sold on 16/11/1992, Plot Nos.134 and 132 at Kolakhe were sold on 5/11/1990 and Plot No.5 Part (I) at Khanavale was sold on 31/8/1995. It is thus clear that at least one alleged sale transaction was prior to the date of the decree and the remaining three transactions are after the decree was passed.

2. This Contempt Petition has been moved on

12/6/1997 and the last alleged sale transaction is dated 31/8/1995. It is obvious that the Contempt Petition has not been filed within the period of limitation of one year and, therefore, it is hit by Section 20 of the Contempt of Courts Act, 1971. Even otherwise it has been stated in the affidavit in reply that the decree was never served on the answering respondent no.1 till he received the Advocate's notice dated 28/6/1996 and before the said notice was received the decree was discharged in as much as the amount of Rs.12 lakhs with interest at 36% p.a. was already paid to the decree holders. In addition, the petitioners had an option to apply for execution of the decree and pray for the sale transactions pendente lite to be quashed and set aside for execution of the decree. The affidavit in reply states that at no point of time execution proceedings were filed by the decree holders.

3. This Contempt Petition, therefore, fails and the same is hereby dismissed. Rule is discharged.

(B.H. Marlapalle,J.)